

ASSEMBLY BILL

No. 1715

Introduced by Assembly Member Holden

January 26, 2016

An act to amend Sections 27 and 2920 of, to amend, repeal, and add Sections 2922, 2923, and 2927 of, to add Chapter 6.7 (commencing with Section 2999.10) to Division 2 of, and to repeal Sections 2999.20, 2999.26, 2999.31, and 2999.33 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1715, as introduced, Holden. Healing arts: behavior analysis: licensing.

Existing law provides for the licensure and regulation of various healing arts licensees by various boards, as defined, within the Department of Consumer Affairs, including the Board of Psychology. Under existing law, until January 1, 2017, the board is vested with the power to enforce the Psychology Licensing Law, and consists of 9 members, 4 of whom are public members and 5 of whom are licensed psychologists. Existing law requires the board to post information on its licensees, as specified, including, among others, psychological assistants. Existing law specifies that a quorum of the board requires 5 members.

This bill would, on and after July 1, 2018, increase the number of members that constitute a quorum of the board to 6 members, and would require the Governor to appoint 2 additional members to the board that to meet certain requirements, including, but not limited to, that one member is licensed as a psychologist and qualified to practice behavior analysis, as defined.

This bill would establish the Behavior Analyst Act. The bill would require a person to apply for and obtain a license from the board prior to engaging in the practice of behavior analysis, as defined, either as a behavior analyst or an assistant behavior analyst. The bill would require these applicants to, among other things, meet certain educational and training requirements, and submit fingerprints for both a state and federal criminal background check. The bill would require an assistant behavior analyst applicant to provide proof to the board of ongoing supervision by a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis, as specified. The bill would provide that those licenses expire 2 years after the date of issuance and would authorize the renewal of unexpired licenses if certain requirements are met, including the completion of specified continuing education. The bill would also require an applicant to certify, under penalty of perjury, that he or she is in compliance with that continuing education requirement. By expanding the crime of perjury, the bill would impose a state-mandated local program.

This bill would also require a behavior analysis technician, as defined, who practices under the direction and supervision of a licensed behavior analyst, a licensed assistant behavior analyst, or a licensed psychologist who is qualified to practice behavior analysis, to submit, among other things, an application subject to board approval, fingerprints for a state and federal criminal background check, and payment of an annual application fee.

This bill would, until January 1, 2022, vest the board with the power to enforce the Behavior Analyst Act, and would require the board to, among other things, post information regarding licensed behavior analysts and licensed assistant behavior analysts, as specified. The bill would, until January 1, 2022, create the Behavior Analyst Committee within the jurisdiction of the board, and would require the committee to be comprised of 5 members who shall be appointed as specified. The bill would authorize the committee to make recommendations to the board regarding the regulation of the practice of behavior analysis in the state.

This bill would define certain terms for these purposes. The bill would require the board to conduct disciplinary hearings, as specified. The bill, on and after July 1, 2019, would make it unlawful to, among other things, practice behavior analysis without being licensed by the board, except as specified.

This bill would make a licensee or health care facility, as defined, that fails or refuses to comply with an authorized client request or court order for the medical records of a client subject to a specified civil penalty, except as specified. The bill would also make a licensee or health care facility with multiple violations of those court orders subject to a crime. By creating a new crime, the bill would impose a state-mandated local program.

This bill would make a violation of any of these provisions a misdemeanor punishable by 6 months in the county jail or a fine not to exceed \$2,500, or by both imprisonment and a fine. By creating a new crime, this bill would result in a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 27 of the Business and Professions Code
2 is amended to read:
3 27. (a) Each entity specified in subdivisions (c), (d), and (e)
4 shall provide on the Internet information regarding the status of
5 every license issued by that entity in accordance with the California
6 Public Records Act (Chapter 3.5 (commencing with Section 6250)
7 of Division 7 of Title 1 of the Government Code) and the
8 Information Practices Act of 1977 (Chapter 1 (commencing with
9 Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).
10 The public information to be provided on the Internet shall include
11 information on suspensions and revocations of licenses issued by
12 the entity and other related enforcement action, including
13 accusations filed pursuant to the Administrative Procedure Act
14 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
15 Division 3 of Title 2 of the Government Code) taken by the entity
16 relative to persons, businesses, or facilities subject to licensure or
17 regulation by the entity. The information may not include personal
18 information, including home telephone number, date of birth, or
19 social security number. Each entity shall disclose a licensee's

1 address of record. However, each entity shall allow a licensee to
2 provide a post office box number or other alternate address, instead
3 of his or her home address, as the address of record. This section
4 shall not preclude an entity from also requiring a licensee, who
5 has provided a post office box number or other alternative mailing
6 address as his or her address of record, to provide a physical
7 business address or residence address only for the entity's internal
8 administrative use and not for disclosure as the licensee's address
9 of record or disclosure on the Internet.

10 (b) In providing information on the Internet, each entity specified
11 in subdivisions (c) and (d) shall comply with the Department of
12 Consumer Affairs' guidelines for access to public records.

13 (c) Each of the following entities within the Department of
14 Consumer Affairs shall comply with the requirements of this
15 section:

16 (1) The Board for Professional Engineers, Land Surveyors, and
17 Geologists shall disclose information on its registrants and
18 licensees.

19 (2) The Bureau of Automotive Repair shall disclose information
20 on its licensees, including auto repair dealers, smog stations, lamp
21 and brake stations, smog check technicians, and smog inspection
22 certification stations.

23 (3) The Bureau of Electronic and Appliance Repair, Home
24 Furnishings, and Thermal Insulation shall disclose information on
25 its licensees and registrants, including major appliance repair
26 dealers, combination dealers (electronic and appliance), electronic
27 repair dealers, service contract sellers, and service contract
28 administrators.

29 (4) The Cemetery and Funeral Bureau shall disclose information
30 on its licensees, including cemetery brokers, cemetery salespersons,
31 cemetery managers, crematory managers, cemetery authorities,
32 crematories, cremated remains disposers, embalmers, funeral
33 establishments, and funeral directors.

34 (5) The Professional Fiduciaries Bureau shall disclose
35 information on its licensees.

36 (6) The Contractors' State License Board shall disclose
37 information on its licensees and registrants in accordance with
38 Chapter 9 (commencing with Section 7000) of Division 3. In
39 addition to information related to licenses as specified in
40 subdivision (a), the board shall also disclose information provided

1 to the board by the Labor Commissioner pursuant to Section 98.9
2 of the Labor Code.

3 (7) The Bureau for Private Postsecondary Education shall
4 disclose information on private postsecondary institutions under
5 its jurisdiction, including disclosure of notices to comply issued
6 pursuant to Section 94935 of the Education Code.

7 (8) The California Board of Accountancy shall disclose
8 information on its licensees and registrants.

9 (9) The California Architects Board shall disclose information
10 on its licensees, including architects and landscape architects.

11 (10) The State Athletic Commission shall disclose information
12 on its licensees and registrants.

13 (11) The State Board of Barbering and Cosmetology shall
14 disclose information on its licensees.

15 (12) The State Board of Guide Dogs for the Blind shall disclose
16 information on its licensees and registrants.

17 (13) The Acupuncture Board shall disclose information on its
18 licensees.

19 (14) The Board of Behavioral Sciences shall disclose
20 information on its licensees, including licensed marriage and family
21 therapists, licensed clinical social workers, licensed educational
22 psychologists, and licensed professional clinical counselors.

23 (15) The Dental Board of California shall disclose information
24 on its licensees.

25 (16) The State Board of Optometry shall disclose information
26 regarding certificates of registration to practice optometry,
27 statements of licensure, optometric corporation registrations, branch
28 office licenses, and fictitious name permits of its licensees.

29 (17) The Board of Psychology shall disclose information on its
30 licensees, including psychologists, psychological assistants, ~~and~~
31 ~~registered—psychologists.~~ *registered psychologists, behavior*
32 *analysts, and assistant behavior analysts.*

33 (d) The State Board of Chiropractic Examiners shall disclose
34 information on its licensees.

35 (e) The Structural Pest Control Board shall disclose information
36 on its licensees, including applicators, field representatives, and
37 operators in the areas of fumigation, general pest and wood
38 destroying pests and organisms, and wood roof cleaning and
39 treatment.

(f) The Bureau of Medical Marijuana Regulation shall disclose information on its licensees.

(g) “Internet” for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

SEC. 2. Section 2920 of the Business and Professions Code is amended to read:

2920. (a) The Board of Psychology shall enforce and administer this ~~chapter~~. *chapter and Chapter 6.7 (commencing with Section 2999.10)*. The board shall consist of ~~nine~~ 9 members, ~~four~~ 4 of whom shall be public members.

(b) *On and after July 1, 2018, notwithstanding subdivision (a), the board shall consist of 11 members, 5 of whom shall be public members.*

~~(b)~~

(c) This section shall remain in effect only until January 1, 2017, and as of that date is ~~repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.~~ *repealed.*

~~(e)~~

(d) Notwithstanding any other ~~provision of law~~, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 3. Section 2922 of the Business and Professions Code is amended to read:

2922. (a) In appointing the members of the board, except the public members, the Governor shall use his or her judgment to select psychologists who represent, as widely as possible, the varied professional interests of psychologists in California.

(b) The Governor shall appoint two of the public members and the five licensed members of the board qualified as provided in Section 2923. The Senate ~~Rules Committee on Rules~~ and the Speaker of the Assembly shall each appoint a public ~~member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.~~ *member.*

(c) *This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed.*

SEC. 4. Section 2922 is added to the Business and Professions Code, to read:

1 2922. (a) In appointing the licensed members of the board,
2 the Governor shall use his or her judgment to select psychologists
3 and behavior analysts who represent, as widely as possible, the
4 varied professional interests of psychologists and behavior analysts
5 in California.

6 (b) The Governor shall appoint three of the public members and
7 the six licensed members of the board qualified as provided in
8 Section 2923. The Senate Committee on Rules and the Speaker of
9 the Assembly shall each appoint a public member.

10 (c) This section shall become operative on July 1, 2018.

11 SEC. 5. Section 2923 of the Business and Professions Code is
12 amended to read:

13 2923. (a) Each member of the board shall have all of the
14 following qualifications:

15 ~~(a)~~

16 (1) He or she shall be a resident of this state.

17 ~~(b)~~

18 (2) Each member appointed, except the public—members
19 members, shall be a licensed psychologist.

20 (b) The public members shall not be licentiates of the board or
21 of any board under this division or of any board referred to in the
22 Chiropractic Act or the Osteopathic Act.

23 (c) *This section shall become inoperative on July 1, 2018, and,*
24 *as of January 1, 2019, is repealed.*

25 SEC. 6. Section 2923 is added to the Business and Professions
26 Code, to read:

27 2923. (a) Each member of the board shall be a resident of this
28 state.

29 (b) Five members of the board shall be licensed as psychologists
30 under this chapter.

31 (c) One member shall be licensed as a psychologist and qualified
32 to practice behavior analysis, as defined in Section 2999.12, as
33 follows:

34 (1) For the first appointment after the operative date of this
35 section, the member shall hold a certificate as a certified behavior
36 analyst from a certifying entity, as defined in Section 2999.12.

37 (2) For subsequent appointments, the member shall be licensed
38 as a behavior analyst under Chapter 6.7 (commencing with Section
39 2999.10).

(d) The public members shall not be licentiates of the board or of any board under this division or of any board referred to in the Chiropractic Act or the Osteopathic Act.

(e) This section shall become operative on July 1, 2018.

SEC. 7. Section 2927 of the Business and Professions Code is amended to read:

2927. (a) Five members of the board shall at all times constitute a quorum.

(b) *This section shall become inoperative on July 1, 2018, and, as of January 1, 2019, is repealed.*

SEC. 8. Section 2927 is added to the Business and Professions Code, to read:

2927. (a) Six members of the board shall at all times constitute a quorum.

(b) This section shall become operative on July 1, 2018.

SEC. 9. Chapter 6.7 (commencing with Section 2999.10) is added to Division 2 of the Business and Professions Code, to read:

CHAPTER 6.7. BEHAVIOR ANALYSTS

Article 1. General Provisions

2999.10. This chapter shall be known, and may be cited, as the Behavior Analyst Act.

2999.11. (a) The Legislature finds and declares that the practice of behavior analysis in California affects the public health, safety, and welfare, and is subject to regulation to protect the public from the unauthorized and unqualified practice of behavior analysis, and unprofessional, unethical, or harmful conduct by persons licensed to practice behavior analysis.

(b) It is the intent of the Legislature that the board begin accepting applications for behavior analyst licensure and assistant behavior analyst licensure no later than January 1, 2018, provided that the funds necessary to implement this chapter have been appropriated by the Legislature as specified in Section 2999.98.

2999.12. For purposes of this chapter, the following terms have the following meanings:

(a) "Behavior analysis technician" means an individual who works directly with a client to implement applied behavior analysis services under the direction and supervision of a licensed behavior

1 analyst, a licensed assistant behavior analyst, or a licensed
2 psychologist who is qualified to practice behavior analysis, and
3 has successfully completed the application requirements described
4 in Section 2999.36.

5 (b) “Board” means the Board of Psychology.

6 (c) “Certifying entity” means the Behavior Analyst Certification
7 Board or its successor, or another national credentialing
8 organization with behavior analyst certification programs approved
9 by the board and accredited by the National Commission for
10 Certifying Agencies.

11 (d) “Committee” means the Behavior Analyst Committee.

12 (e) “Department” means the Department of Consumer Affairs.

13 (f) “Licensed assistant behavior analyst” means a person licensed
14 under this chapter to practice behavior analysis under the
15 supervision of a licensed behavior analyst.

16 (g) “Licensed behavior analyst” means a person licensed under
17 this chapter to practice behavior analysis.

18 (h) “Practice of behavior analysis” or “to practice behavior
19 analysis” means the design, implementation, and evaluation of
20 instructional and environmental modifications to produce socially
21 significant improvements in human behavior and includes the
22 empirical identification of functional relations between behavior
23 and environmental factors, known as functional assessment and
24 analysis, interventions based on scientific research and the direct
25 observation and measurement of behavior and the environment,
26 and utilization of contextual factors, motivating operations,
27 antecedent stimuli, positive reinforcement, and other consequences
28 to help people develop new behaviors, increase or decrease existing
29 behaviors, and emit behaviors under specific environmental
30 conditions.

31 (1) The practice of behavior analysis does not include
32 psychological testing and assessment, diagnosis of a mental or
33 physical disorder, neuropsychology, psychotherapy, cognitive
34 therapy, sex therapy, psychoanalysis, hypnotherapy, counseling,
35 prescribing drugs, performing surgery, or administering
36 electroconvulsive therapy.

37 (2) The Legislature recognizes that the scopes of practice of
38 healing arts licensees regulated under this division sometimes
39 contain similar practices. However, nothing herein shall be
40 construed to allow a licensed behavior analyst or a licensed

1 assistant behavior analyst to engage in those practices, including,
2 but not limited to, assessments, other than specific to their scope
3 of practice within behavior analysis as described herein. Any
4 person practicing behavior analysis under this chapter who violates
5 this provision is subject to disciplinary action by both the Board
6 of Psychology and the board overseeing the relevant practice.

7
8 Article 2. Administration
9

10 2999.20. (a) The Board of Psychology is vested with the power
11 to administer the provisions and requirements of this chapter, and
12 may make and enforce rules and regulations that are reasonably
13 necessary to carry out its provisions.

14 (b) This section shall remain in effect only until January 1, 2022,
15 and as of that date is repealed. Notwithstanding any other law, the
16 repeal of this section renders the board subject to review by the
17 appropriate policy committees of the Legislature.

18 2999.21. Protection of the public shall be the highest priority
19 for the board in exercising its licensing, regulatory, and disciplinary
20 functions pursuant to this chapter. Whenever the protection of the
21 public is inconsistent with other interests sought to be promoted,
22 the protection of the public shall be paramount.

23 2999.22. The board shall adopt, amend, and repeal regulations
24 to implement the requirements of this chapter. All regulations
25 adopted by the board shall comply with the provisions of Chapter
26 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
27 Title 2 of the Government Code.

28 2999.23. The board shall adopt a program of consumer and
29 professional education in matters relevant to the ethical practice
30 of behavior analysis. The board shall establish as its standards of
31 ethical conduct relating to the practice of behavior analysis, the
32 “Professional and Ethical Compliance Code for Behavior Analysts”
33 published by the Behavior Analyst Certification Board. These
34 standards shall be applied by the board as the accepted standard
35 of care in all licensing examination development and in all board
36 enforcement policies and disciplinary case evaluations.

37 2999.24. The board may employ, subject to civil service and
38 other laws, employees as may be necessary to carry out the
39 provisions of this chapter under the direction of the executive
40 officer of the board.

1 2999.25. The board shall maintain, and make available to the
2 public, a list of all licensees. The board shall make available on
3 its Internet Web site information regarding the status of every
4 license issued by the board under this chapter pursuant to Section
5 27.

6 2999.26. (a) The Behavior Analyst Committee is hereby
7 created within the jurisdiction of the board to make
8 recommendations to the board regarding the regulation of the
9 practice of behavior analysis in the state in order to protect the
10 public from the unauthorized and unqualified practice of applied
11 behavior analysis, and unprofessional, unethical, or harmful
12 conduct by persons licensed to practice behavior analysis.

13 (b) The committee shall consist of five members. Two members
14 shall be licensed behavior analysts, one of which shall also be a
15 member of the board. One member shall be a psychologist licensed
16 under Chapter 6.6 (commencing with Section 2900) and who holds
17 a current certification from a certifying entity as a behavior analyst.
18 One member shall be a licensed assistant behavior analyst. One
19 member shall be a public member who is not licensed under this
20 chapter, under any chapter within this division, or by any board
21 referred to in the Chiropractic Act or the Osteopathic Act.

22 (c) The Governor shall appoint one licensed behavior analyst
23 member, the licensed psychologist member, and the licensed
24 assistant behavior analyst member. The Senate Committee on
25 Rules shall appoint the public member, and the Speaker of the
26 Assembly shall appoint one licensed behavior analyst member.

27 (d) Notwithstanding subdivisions (b) and (c), the initially
28 appointed members of the committee shall be appointed as follows:

29 (1) The initial members appointed by the Governor shall be as
30 follows:

31 (A) One member shall be currently certified by a certifying
32 entity as a certified behavior analyst and shall serve an initial term
33 of one year.

34 (B) One member shall be currently certified by a certifying
35 entity as a certified assistant behavior analyst and shall serve an
36 initial term of two years.

37 (C) One member shall be a licensed psychologist who is
38 currently certified by a certifying entity as a certified behavior
39 analyst and shall serve an initial term of three years.

(2) The initial member appointed by the Senate Committee on Rules shall serve a term of four years.

(3) The initial member appointed by the Speaker of the Assembly shall be currently certified by a certifying entity as a certified behavior analyst and shall serve an initial term of four years.

(e) Except as provided in subdivision (d), each member of the committee shall hold office for a term of four years, and shall serve until the appointment of his or her successor or until one year has elapsed since the expiration of the term for which he or she was appointed, whichever occurs first. Vacancies shall be filled by the appointing power for the unexpired portion of the terms in which they occur. A member shall not serve for more than two consecutive terms.

(f) All terms shall begin on July 1 and expire on June 30.

(g) Each member of the committee shall receive per diem and expenses as provided in Sections 103 and 113.

(h) Three members of the committee shall at all times constitute a quorum.

(i) This section shall become operative on July 1, 2018.

(j) This section shall remain in effect only until January 1, 2022, and as of that date is repealed. Notwithstanding any other law, the repeal of this section renders the committee subject to review by the appropriate policy committees of the Legislature.

2999.27. The committee shall do all of the following:

(a) Meet at least once per quarter. All meetings of the committee shall be public meetings. Notice of each regular meeting of the committee shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(b) Committee meetings may be called upon reasonable notice at the discretion of the chair, and shall be called at any time upon reasonable notice by a written request of two committee members to the chair.

(c) The committee shall elect a chair and a vice chair from among its members at the first meeting held in each fiscal year. The chair shall preside at all meetings of the committee and shall work with the executive officer of the board to coordinate the

1 committee's business. If the chair is unable to attend a meeting,
2 the vice chair shall preside at the meeting.

3 2999.28. (a) The committee may make recommendations to
4 the board regarding licensing and practice standards.

5 (b) The committee may make recommendations to the board
6 regarding the adoption, amendment, and repeal of regulations to
7 implement the requirements of this chapter including, but not
8 limited to, the setting of fees and the establishment of disciplinary
9 guidelines.

10
11 Article 3. Licensing
12

13 2999.30. To qualify for licensure as a licensed behavior analyst
14 or a licensed assistant behavior analyst, each applicant shall meet
15 the board's regulatory requirements for behavior analyst or assistant
16 behavior analyst licensure, as applicable, including all of the
17 following:

18 (a) The applicant has not committed acts or crimes constituting
19 grounds for denial of licensure under Section 480.

20 (b) The board shall not issue a license or registration to any
21 person who has been convicted of a crime in this state, or another
22 state, or in a territory of the United States that involves sexual
23 abuse of a child, or who is required to register pursuant to Section
24 290 of the Penal Code or the equivalent in another state or territory.

25 (c) The applicant has successfully passed a state and federal
26 level criminal offender record information search conducted
27 through the Department of Justice, as follows:

28 (1) The board shall request from the Department of Justice
29 subsequent arrest notification service, pursuant to Section 11105.2
30 of the Penal Code, for each person who submitted information
31 pursuant to this subdivision.

32 (2) The Department of Justice shall charge a fee sufficient to
33 cover the cost of processing the request described in this section.

34 2999.31. (a) In order to obtain a license as a behavior analyst,
35 an individual shall submit an application on a form approved by
36 the board accompanied by the fees required by the board as
37 specified in Section 2999.93.

38 (b) An applicant shall include, with the application, verification
39 from the certifying entity that the applicant meets both of the
40 following requirements:

1 (1) Has passed the Board Certified Behavior Analyst
2 examination or an equivalent examination administered by the
3 certifying entity.

4 (2) Maintains an active status as a certified behavior analyst
5 with the certifying entity.

6 (c) Each applicant shall obtain a passing score on a California
7 law and ethics examination administered by the board.

8 (d) This section shall become inoperative on July 1, 2019. An
9 applicant who submits his or her application prior to July 1, 2019,
10 shall be required to meet the requirements of this section to be
11 licensed by the board.

12 (e) This section shall remain in effect only until January 1, 2020,
13 and as of that date is repealed.

14 2999.32. (a) In order to obtain a license as a behavior analyst,
15 an individual shall submit an application on a form approved by
16 the board accompanied by the fees required by the board as
17 specified in Section 2999.93.

18 (b) An applicant shall include, with the application, verification
19 from the certifying entity that the applicant meets both of the
20 following requirements:

21 (1) Has passed the Board Certified Behavior Analyst
22 examination or an equivalent examination administered by the
23 certifying entity.

24 (2) Maintains an active status as a certified behavior analyst
25 with the certifying entity.

26 (c) Each applicant shall obtain a passing score on a California
27 law and ethics examination administered by the board.

28 (d) The applicant shall possess a master's degree or higher level
29 of education from an institution, which meets the requirements
30 described in Section 2999.35, that was conferred in behavior
31 analysis, psychology, or education, or conferred in a degree
32 program in which the applicant completed a behavior analysis
33 course sequence approved by the certifying entity or otherwise
34 deemed an applicable equivalent by the certifying entity.

35 (e) In addition to subdivisions (a) to (d), inclusive, an individual
36 shall meet one of the following paragraphs in order to be licensed
37 under this chapter:

38 (1) An individual shall have completed both of the following:

39 (A) Two hundred seventy hours of classroom graduate-level
40 instruction in all of the following content areas:

1 (i) Ethical and professional conduct coursework consisting of
2 45 hours. The content must be taught in one or more freestanding
3 courses devoted to ethical and professional conduct of behavior
4 analysts.

5 (ii) Concepts and principles of behavior analysis consisting of
6 45 hours.

7 (iii) Research methods in behavior analysis, consisting of 25
8 hours of measurement, including data analysis, and 20 hours of
9 experimental design.

10 (iv) Applied behavior analysis, consisting of 45 hours of
11 fundamental elements of behavior change and specific behavior
12 change procedures, 30 hours of identification of the problem and
13 assessment, 10 hours of intervention and behavior change
14 considerations, 10 hours of behavior change systems, and 10 hours
15 of implementation, management, and supervision.

16 (v) Elective coursework in behavior analysis consisting of 30
17 hours.

18 (B) Supervised experiential training by any of the following:

19 (i) One thousand five hundred hours of independent field work
20 in behavior analysis supervised in accordance with the requirements
21 of the certifying entity.

22 (ii) One thousand hours of supervised practicum in behavior
23 analysis within a university practicum approved by the certifying
24 entity, taken for graduate academic credit, and completed with a
25 passing grade.

26 (iii) Seven hundred fifty hours of supervised intensive practicum
27 in behavior analysis within a university practicum approved by
28 the certifying entity, taken for graduate academic credit, and
29 completed with a passing grade.

30 (iv) A combination of the supervised experience in clause (i),
31 (ii), or (iii). Hours may be completed in any combination of the
32 categories of supervised experience. Hours accrued through a
33 combination of supervised experience shall be proportionately
34 calculated.

35 (2) An individual shall meet all of the following requirements:

36 (A) Have a faculty appointment of at least three years,
37 cumulatively, of full-time work as a faculty member at a fully
38 accredited higher education institution within a five-year period.

39 (B) Taught at least five sections or iterations of behavior analysis
40 coursework. An applicant shall have taught at least two behavior

1 analysis content areas, which are concepts and principles of
2 behavior, single-subject research methods, applied behavior
3 analysis, and ethics in behavior analysis, in separate courses. Each
4 course taught shall have been exclusively or primarily devoted to
5 behavior analysis content, and shall have been taught at the
6 graduate level. An applicant shall submit proof of completion of
7 the faculty appointment and teaching requirements from a
8 department head, including the syllabus for each course taught, to
9 the board.

10 (C) Published one article with all of the following
11 characteristics:

- 12 (i) Behavior analytic in nature.
- 13 (ii) Includes at least one experimental evaluation.
- 14 (iii) Published in a high-quality, peer reviewed journal.
- 15 (iv) The applicant is the first, second, or corresponding author.
- 16 (v) The article may have been published at any time during the
17 applicant's career.

18 (D) Obtained supervised experiential training by any of the
19 following:

20 (i) One thousand five hundred hours of independent field work
21 in behavior analysis supervised in accordance with the requirements
22 of the certifying entity.

23 (ii) One thousand hours of supervised practicum in behavior
24 analysis within a university practicum approved by the certifying
25 entity, taken for graduate academic credit, and completed with a
26 passing grade.

27 (iii) Seven hundred fifty hours of supervised intensive practicum
28 in behavior analysis within a university practicum approved by
29 the certifying entity, taken for graduate credit, and completed with
30 a passing grade.

31 (iv) A combination of the supervised experience in clause (i),
32 (ii), or (iii). Hours may be completed in any combination of the
33 categories of supervised experience. Hours accrued through a
34 combination of supervised experience shall be proportionately
35 calculated.

36 (3) An individual shall have completed all of the following:

37 (A) A doctoral degree in behavior analysis, psychology, or
38 education from an accredited higher education institution.

39 (B) Ten years of postdoctoral experience practicing behavior
40 analysis. The duration of practice shall be at least 10 years,

1 cumulatively, of full-time practice. An applicant's practice shall
2 have occurred under a relevant state professional credential or
3 license.

4 (C) At least 500 hours of supplemental supervised experiential
5 training that meets current experience standards of the certifying
6 entity, commencing after the 10 years of postdoctoral experience
7 required in paragraph (b).

8 (f) This section shall become operative on July 1, 2019.

9 2999.33. (a) To obtain a license as an assistant behavior
10 analyst, an individual shall submit an application on a form
11 approved by the board accompanied by the fees required by the
12 board as specified in Section 2999.93.

13 (b) An applicant shall include, with the application, verification
14 from the certifying entity that the applicant meets all of the
15 following requirements:

16 (1) Has passed the Board Certified Assistant Behavior Analyst
17 examination or equivalent examination administered by the
18 certifying entity.

19 (2) Maintains an active status as a certified assistant behavior
20 analyst with the certifying entity.

21 (c) Each applicant shall obtain a passing score on a California
22 law and ethics examination administered by the board.

23 (d) Each applicant shall provide proof to the board of ongoing
24 supervision by a licensed behavior analyst or a licensed
25 psychologist who is qualified to practice behavior analysis in a
26 manner consistent with the certifying entity's requirements for
27 supervision of assistant behavior analysts.

28 (e) This section shall become inoperative on July 1, 2019. An
29 applicant who submits his or her application prior to July 1, 2019,
30 shall be required to meet the requirements of this section to be
31 licensed by the board.

32 (f) This section shall remain in effect only until January 1, 2020,
33 and as of that date is repealed.

34 2999.34. (a) In order for an individual to be licensed as an
35 assistant behavior analyst under this chapter, he or she shall possess
36 a baccalaureate degree or higher level of education from an
37 institution that meets the requirements described in Section
38 2999.35.

(b) An applicant shall include, with the application, verification from the certifying entity that the applicant meets both of the following requirements:

(1) Has passed the Board Certified Assistant Behavior Analyst examination or an equivalent examination administered by the certifying entity.

(2) Maintains an active status as a certified assistant behavior analyst with the certifying entity.

(c) Each applicant shall obtain a passing score on a California law and ethics examination administered by the board.

(d) Each applicant shall provide proof to the board of ongoing supervision by a licensed behavior analyst or a licensed psychologist who is qualified to practice behavior analysis in a manner consistent with the certifying entity's requirements for supervision of assistant behavior analysts.

(e) In addition to subdivisions (a) to (d), inclusive, an individual shall meet all of the following requirements in order to be licensed under this chapter:

(1) Completed a baccalaureate degree or higher level of education from an institution that meets the requirements in Section 2999.35.

(2) An applicant shall meet both of the following:

(A) Completed 180 classroom hours of undergraduate or graduate level instruction in all of the following content areas:

(i) Ethical and professional conduct coursework of behavior analysis consisting of 15 hours.

(ii) Concepts and principles of behavior analysis consisting of 45 hours.

(iii) Research methods in behavior analysis, consisting of 10 hours of measurement, including data analysis, and five hours of experimental design.

(iv) Applied behavior analysis, consisting of 45 hours of fundamental elements of behavior change and specific behavior change procedures, 30 hours of identification of the problem and assessment, five hours of intervention and behavior change considerations, five hours of behavior change systems, and five hours of implementation, management, and supervision.

(v) Elective coursework in behavior analysis consisting of 15 hours.

1 (B) Obtained supervised experiential training by any of the
2 following:

3 (i) One thousand hours of independent field work in behavior
4 analysis supervised in accordance with the requirements of the
5 certifying entity, taken for academic credit, and completed with a
6 passing grade.

7 (ii) Six hundred seventy hours of supervised practicum in
8 behavior analysis within a university practicum approved by the
9 certifying entity, taken for academic credit, and completed with a
10 passing grade.

11 (iii) Five hundred hours of supervised intensive practicum in
12 behavior analysis within a university practicum approved by the
13 certifying entity, taken for academic credit, and completed with a
14 passing grade.

15 (iv) A combination of the supervised experience in clause (i),
16 (ii), or (iii). Hours may be completed in any combination of the
17 categories of supervised experience. Hours accrued through a
18 combination of supervised experience shall be proportionately
19 calculated.

20 (f) This section shall become operative on July 1, 2019.

21 2999.35. The education required to obtain a behavior analyst
22 license or an assistant behavior analyst license shall be from any
23 of the following:

24 (a) A United States institution of higher education listed by the
25 Council for Higher Education Accreditation.

26 (b) A Canadian institution of higher education that is a member
27 of the Association of Universities and Colleges of Canada or the
28 Association of Canadian Community Colleges.

29 (c) An applicant for licensure trained in an educational
30 institution outside the United States or Canada shall demonstrate
31 to the satisfaction of the board that he or she possesses a degree
32 in a relevant subject that is equivalent to a degree earned from a
33 regionally accredited university in the United States or Canada.
34 Such an applicant shall provide to the board a comprehensive
35 evaluation of the degree performed by a foreign credential service
36 that is a member of the National Association of Credential
37 Evaluation Services (NACES), and any other documentation that
38 the board deems necessary.

39 2999.36. (a) Behavior analysis technicians practicing in this
40 state under the direction and supervision of an individual licensed

1 under this chapter or a licensed psychologist who is qualified to
2 practice behavior analysis shall satisfy all of the following
3 requirements:

4 (1) Be at least 18 years of age and possess a minimum of a high
5 school diploma or its equivalent.

6 (2) Submit an application on a form approved by the board.

7 (3) Submit fingerprint images to the California Department of
8 Justice for a state and federal criminal background report within
9 14 days from the date of application.

10 (4) Annually pay an application fee, in an amount not to exceed
11 a reasonable regulatory cost, to be determined by the board.

12 (b) The board may deny or revoke acceptance of an application
13 under this section if it is determined to be in the best interest of
14 public safety and welfare, as described in Section 2999.21.

15 2999.37. On and after July 1, 2019, it shall be unlawful for any
16 person to engage in any of the following acts:

17 (a) Engage in the practice of behavior analysis, as defined in
18 Section 2999.12, without first having complied with the provisions
19 of this chapter and without holding a current, valid, and active
20 license as required by this chapter.

21 (b) Represent himself or herself by the title “licensed behavior
22 analyst,” or “licensed assistant behavior analyst” without being
23 duly licensed according to the provisions of this chapter.

24 (c) Make any use of any title, words, letters, or abbreviations
25 that may reasonably be confused with a designation provided by
26 this chapter to denote a standard of professional or occupational
27 competence without being duly licensed.

28 (d) Materially refuse to furnish the board information or records
29 required or requested pursuant to this chapter.

30 2999.38. This chapter does not apply to any of the following:

31 (a) An individual licensed to practice psychology in this state
32 under Chapter 6.6 (commencing with Section 2900), if the practice
33 of behavior analysis engaged in by the licensed psychologist is
34 within the licensed psychologist’s training and competence.

35 (b) A speech-language pathologist or an audiologist licensed
36 under Chapter 5.3 (commencing with Section 2530), an
37 occupational therapist licensed under Chapter 5.6 (commencing
38 with Section 2570), a physical therapist licensed under Chapter
39 5.7 (commencing with Section 2600), a marriage and family
40 therapist licensed under Chapter 13 (commencing with Section

1 4980), an educational psychologist licensed under Chapter 13.5
2 (commencing with Section 4989.10), a clinical social worker
3 licensed under Chapter 14 (commencing with Section 4991), or a
4 professional clinical counselor licensed under Chapter 16
5 (commencing with Section 4999.10), if the services provided by
6 any of those licensees are within his or her licensed scope of
7 practice and within the scope of his or her training and competence,
8 provided that he or she does not represent himself or herself as a
9 licensed behavior analyst or licensed assistant behavior analyst.

10 (c) A student or other individual pursuing supervised experience
11 for any of the following:

12 (1) Experiential training toward a license described in this
13 chapter in accordance with this chapter.

14 (2) Experience in behavior analysis toward a license described
15 in subdivision (a) or (b) in accordance with the requirements of
16 the respective licensure act in this division.

17 (3) As part of a defined program of study, course, practicum,
18 internship, or postdoctoral program, provided that the behavior
19 analysis activities are directly supervised by a licensed behavior
20 analyst, a licensed psychologist, or by an instructor in a course
21 sequence approved by a certifying entity.

22 (d) A parent or guardian of a recipient of behavior analysis
23 services who acts under the direction of a licensed behavior analyst
24 or licensed assistant behavior analyst.

25 (e) An individual who teaches behavior analysis or conducts
26 behavior analysis research, provided that such teaching or research
27 does not involve the direct delivery of behavior analysis services.

28 (f) A behavior analyst licensed in another state or certified by
29 the certifying entity to practice independently, and who temporarily
30 provides behavior analysis services in California during a period
31 of not more than 90 days in a calendar year.

32 (g) An individual who is vendorized by one or more regional
33 centers of the State Department of Developmental Services while
34 practicing behavior analysis services authorized under that
35 vendorization. That individual shall not represent himself or herself
36 as a licensed behavior analyst or licensed assistant behavior analyst
37 unless he or she holds a license under this chapter, and shall not
38 offer behavior analysis services to any person or entity other than
39 the regional centers with which he or she is vendorized or accept
40 remuneration for providing behavior analysis services other than

1 the remuneration received from those regional centers unless he
2 or she holds a license under this chapter.

3 (h) An individual employed by a local educational agency for
4 the purpose of assisting students with behavioral and developmental
5 issues when in classroom and other school settings.

6 2999.41. A licensee shall give written notice to the board of a
7 name change within 30 days after each change, giving both the
8 old and new names. A copy of the legal document authorizing the
9 name change, such as a court order or marriage certificate, shall
10 be submitted with the notice.

11 2999.44. (a) A license shall expire and become invalid two
12 years after it is issued at 12 midnight on the last day of the month
13 in which it was issued, if not renewed.

14 (b) To renew an unexpired license, the licensee shall, on or
15 before the date on which it would otherwise expire, apply for
16 renewal on a form provided by the board, accompanied by the
17 renewal fee set by the board. The licensee shall include verification
18 from the certifying entity that he or she maintains an active
19 certification status with the renewal form.

20 (c) To renew an assistant behavior analyst license, in addition
21 to the requirements in subdivision (b), the licensee shall submit
22 proof of ongoing supervision by a licensed behavior analyst or a
23 licensed psychologist who is qualified to practice behavior analysis
24 in a manner consistent with the board's requirements for
25 supervision of assistant behavior analysts.

26 2999.45. (a) A license that has expired may be renewed at any
27 time within three years after its expiration by applying for renewal
28 on a form provided by the board, payment of all accrued and unpaid
29 renewal fees, and the delinquency fee specified in Section 2999.93.
30 The licensee shall include verification from the certifying entity
31 that he or she maintains an active certification status with the
32 renewal form.

33 (b) Except as provided in Section 2999.47, a license that is not
34 renewed within three years of its expiration shall not be renewed,
35 restored, or reinstated, and the license shall be canceled
36 immediately upon expiration of the three-year period.

37 2999.46. (a) The board shall not issue any renewal license, a
38 new license after expiration of an expired license, or a reinstatement
39 license unless the applicant submits proof that he or she has
40 completed not less than 32 hours of approved continuing education

1 in the preceding two-year licensure cycle for licensed behavior
2 analysts and 20 hours of approved continuing education in the
3 preceding two-year licensure cycle for licensed assistant behavior
4 analysts.

5 (b) Each person renewing or reinstating his or her license or
6 obtaining a new license after expiration of a prior license issued
7 pursuant to this chapter shall submit proof of compliance with this
8 section to the board.

9 (c) A person applying for renewal, a new license after expiration
10 of a prior license, or reinstatement to an active license status shall
11 certify under penalty of perjury that he or she is in compliance
12 with this section.

13 (d) The board may recognize continuing education courses that
14 have been approved by one or more private nonprofit organizations
15 that have at least 10 years' experience managing continuing
16 education programs for behavior analysts.

17 (e) The board shall adopt regulations as necessary for
18 implementation of this section.

19 2999.47. (a) A suspended license is subject to expiration and
20 shall be renewed as provided in this article, but such renewal does
21 not entitle the licensee, while the license remains suspended, and
22 until it is reinstated, to engage in the licensed activity or in any
23 other activity or conduct in violation of the order or judgment by
24 which the license was suspended.

25 (b) A license revoked on disciplinary grounds is subject to
26 expiration as provided in this article, but it may not be renewed.
27 If it is reinstated after its expiration, the licensee, as a condition
28 of reinstatement, shall pay a reinstatement fee in an amount equal
29 to the renewal fee, plus the delinquency fee, and any fees accrued
30 at the time of its revocation.

31 32 Article 4. Enforcement 33

34 2999.60. The board may on its own, and shall, upon the receipt
35 of a complaint from any person, investigate the actions of any
36 licensee. The board shall review a licensee's alleged violation of
37 statute, regulation, or any other law and any other complaint
38 referred to it by the public, a public agency, or the department,
39 and may upon a finding of a violation take disciplinary action
40 under this article.

1 2999.61. A license issued under this chapter may be denied,
2 revoked, or otherwise sanctioned upon demonstration of
3 ineligibility for licensure, including, but not limited to, failure to
4 maintain active certification by the certifying entity or falsification
5 of documentation submitted to the board for licensure or submitted
6 to the certifying authority for certification.

7 2999.62. The board may deny a license application, may issue
8 a license with terms and conditions, may suspend or revoke a
9 license, or may place a license on probation if the applicant or
10 licensee has been guilty of unprofessional conduct. Unprofessional
11 conduct shall include, but not be limited to:

12 (a) Conviction of a crime substantially related to the
13 qualifications, functions, or duties of a licensed behavior analyst
14 or a licensed assistant behavior analyst.

15 (b) Use of any controlled substance as defined in Division 10
16 (commencing with Section 11000) of the Health and Safety Code,
17 dangerous drug, or any alcoholic beverage to an extent or in a
18 manner dangerous to himself or herself, any other person, or the
19 public, or to an extent that this use impairs his or her ability to
20 safely perform the practice of behavior analysis.

21 (c) Fraudulently or neglectfully misrepresenting the type or
22 status of a license actually held.

23 (d) Impersonating another person holding a license or allowing
24 another person to use his or her license.

25 (e) Use of fraud or deception in applying for a license or in
26 passing any examination required by this chapter.

27 (f) Paying, offering to pay, accepting, or soliciting any
28 consideration, compensation, or remuneration, whether monetary
29 or otherwise, for the referral of clients.

30 (g) Violating Section 17500.

31 (h) Willful, unauthorized communication of information
32 received in professional confidence.

33 (i) Violating any rule of professional conduct promulgated by
34 the board and set forth in regulations duly adopted under this
35 chapter.

36 (j) Being grossly negligent in the practice of his or her
37 profession.

38 (k) Violating any of the provisions of this chapter or regulations
39 duly adopted thereunder.

1 (l) The aiding or abetting of any person to engage in the unlawful
2 practice of behavior analysis.

3 (m) The suspension, revocation, or imposition of probationary
4 conditions or other disciplinary action by another state or country
5 of a license, certificate, or registration to practice behavior analysis
6 issued by that state or country to a person also holding a license
7 issued under this chapter if the act for which the disciplinary action
8 was taken constitutes a violation of this section. A certified copy
9 of the decision or judgment of the other state or country shall be
10 conclusive evidence of that action.

11 (n) The commission of any dishonest, corrupt, or fraudulent act.

12 (o) Any act of sexual abuse or sexual relations with a patient or
13 former patient within two years following termination of therapy,
14 or sexual misconduct that is related to the qualifications, functions,
15 or duties of a licensed behavior analyst or a licensed assistant
16 behavior analyst.

17 (p) Functioning outside of his or her particular field or fields of
18 competence as established by his or her education, training, and
19 experience.

20 (q) Willful failure to submit, on behalf of an applicant for
21 licensure, verification of supervised experience to the board.

22 (r) Repeated acts of negligence.

23 (s) Failure to comply with all ethical and disciplinary standards
24 published by the certifying entity.

25 2999.63. (a) Except as provided in subdivisions (b), (c), and
26 (e), any accusation filed against a licensee pursuant to Section
27 11503 of the Government Code shall be filed within three years
28 from the date the board discovers the alleged act or omission that
29 is the basis for disciplinary action, or within seven years from the
30 date the alleged act or omission that is the basis for disciplinary
31 action occurred, whichever occurs first.

32 (b) An accusation filed against a licensee pursuant to Section
33 11503 of the Government Code alleging the procurement of a
34 license by fraud or misrepresentation is not subject to the
35 limitations set forth in subdivision (a).

36 (c) The limitation provided for by subdivision (a) shall be tolled
37 for the length of time required to obtain compliance when a report
38 required to be filed by the licensee or registrant with the board
39 pursuant to Article 11 (commencing with Section 800) of Chapter
40 1 is not filed in a timely fashion.

1 (d) If an alleged act or omission involves a minor, the seven-year
2 limitations period provided for by subdivision (a) and the 10-year
3 limitations period provided for by subdivision (e) shall be tolled
4 until the minor reaches the age of majority.

5 (e) An accusation filed against a licensee pursuant to Section
6 11503 of the Government Code alleging sexual misconduct shall
7 be filed within three years after the board discovers the act or
8 omission alleged as the ground for disciplinary action, or within
9 10 years after the act or omission alleged as the ground for
10 disciplinary action occurs, whichever occurs first.

11 (f) The limitations period provided by subdivision (a) shall be
12 tolled during any period if material evidence necessary for
13 prosecuting or determining whether a disciplinary action would
14 be appropriate is unavailable to the board due to an ongoing
15 criminal investigation.

16 2999.64. Notwithstanding Section 2999.62, any proposed
17 decision or decisions issued under this chapter in accordance with
18 the procedures set forth in Chapter 5 (commencing with Section
19 11500) of Part 1 of Division 3 of Title 2 of the Government Code
20 that contains any finding of fact that the licensee engaged in any
21 act of sexual contact, as defined in Section 728, when that act is
22 with a patient, or with a former patient, within two years following
23 termination of services, shall contain an order of revocation. The
24 revocation shall not be stayed by the administrative law judge.

25 2999.66. The board may deny an application for, or issue
26 subject to terms and conditions, or suspend or revoke, or impose
27 probationary conditions upon, a license or registration after a
28 hearing as provided in Section 2999.70.

29 2999.67. A plea or verdict of guilty or a conviction following
30 a plea of nolo contendere made to a charge which is substantially
31 related to the qualifications, functions, and duties of a licensed
32 behavior analyst or licensed assistant behavior analyst is deemed
33 to be a conviction within the meaning of this article. The board
34 may order the license suspended or revoked, or may decline to
35 issue a license when the time for appeal has elapsed, the judgment
36 of conviction has been affirmed on appeal, or when an order
37 granting probation is made suspending the imposition of sentence,
38 irrespective of a subsequent order under Section 1203.4 of the
39 Penal Code allowing the person to withdraw his or her plea of

1 guilty and to enter a plea of not guilty, or setting aside the verdict
2 of guilty, or dismissing the accusation, information, or indictment.

3 2999.68. Any person required to register as a sex offender
4 pursuant to Section 290 of the Penal Code, is not eligible for
5 licensure by the board.

6 2999.69. An administrative disciplinary decision that imposes
7 terms of probation may include, among other things, a requirement
8 that the licensee who is being placed on probation pay the monetary
9 costs associated with monitoring the probation.

10 2999.70. The proceedings under this article shall be conducted
11 by the board in accordance with Chapter 5 (commencing with
12 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
13 Code.

14 2999.80. A person who violates any of the provisions of this
15 chapter is guilty of a misdemeanor punishable by imprisonment
16 in a county jail not exceeding six months or by a fine not exceeding
17 two thousand five hundred dollars (\$2,500), or by both that fine
18 and imprisonment.

19 2999.81. In addition to other proceedings provided in this
20 chapter, whenever any person has engaged, or is about to engage,
21 in any acts or practices that constitute, or will constitute, an offense
22 against this chapter, the superior court in and for the county
23 wherein the acts or practices take place, or are about to take place,
24 may issue an injunction or other appropriate order restraining that
25 conduct on application of the board, the Attorney General, or the
26 district attorney of the county. Proceedings under this section shall
27 be governed by Chapter 3 (commencing with Section 525) of Title
28 7 of Part 2 of the Code of Civil Procedure, except that it shall be
29 presumed that there is no adequate remedy at law and that
30 irreparable damage will occur if the continued violation is not
31 restrained or enjoined. On the written request of the board, or on
32 its own motion, the board may commence an action in the superior
33 court under this section.

34 2999.83. (a) (1) A licensee who fails or refuses to comply
35 with a request for the medical records of a client, that is
36 accompanied by that client's written authorization for release of
37 those records to the board, within 15 days of receiving the request
38 and authorization, shall pay to the board a civil penalty of one
39 thousand dollars (\$1,000) per day for each day that the documents
40 have not been produced after the 15th day, unless the licensee is

1 unable to provide the documents within this time period for good
2 cause.

3 (2) A health care facility shall comply with a request for the
4 medical records of a client that is accompanied by that client's
5 written authorization for release of records to the board together
6 with a notice citing this section and describing the penalties for
7 failure to comply with this section. Failure to provide the
8 authorizing client's medical records to the board within 30 days
9 of receiving the request, authorization, and notice shall subject the
10 health care facility to a civil penalty, payable to the board, of up
11 to one thousand dollars (\$1,000) per day for each day that the
12 documents have not been produced after the 30th day, up to ten
13 thousand dollars (\$10,000), unless the health care facility is unable
14 to provide the documents within this time period for good cause.
15 This paragraph shall not require health care facilities to assist the
16 board in obtaining the client's authorization. The board shall pay
17 the reasonable costs of copying the medical records.

18 (b) (1) A licensee who fails or refuses to comply with a court
19 order, issued in the enforcement of a subpoena, mandating the
20 release of records to the board shall pay to the board a civil penalty
21 of one thousand dollars (\$1,000) per day for each day that the
22 documents have not been produced after the date by which the
23 court order requires the documents to be produced, unless it is
24 determined that the order is unlawful or invalid. Any statute of
25 limitations applicable to the filing of an accusation by the board
26 shall be tolled during the period the licensee is out of compliance
27 with the court order and during any related appeals.

28 (2) Any licensee who fails or refuses to comply with a court
29 order, issued in the enforcement of a subpoena, mandating the
30 release of records to the board, shall be subject to a civil penalty,
31 payable to the board, in an amount not to exceed five thousand
32 dollars (\$5,000). The amount of the penalty shall be added to the
33 licensee's renewal fee if it is not paid by the next succeeding
34 renewal date. Any statute of limitations applicable to the filing of
35 an accusation by the board shall be tolled during the period the
36 licensee is out of compliance with the court order and during any
37 related appeals.

38 (3) A health care facility that fails or refuses to comply with a
39 court order, issued in the enforcement of a subpoena, mandating
40 the release of client records to the board, that is accompanied by

1 a notice citing this section and describing the penalties for failure
2 to comply with this section, shall pay to the board a civil penalty
3 of up to one thousand dollars (\$1,000) per day for each day that
4 the documents have not been produced, up to ten thousand dollars
5 (\$10,000), after the date by which the court order requires the
6 documents to be produced, unless it is determined that the order
7 is unlawful or invalid. Any statute of limitations applicable to the
8 filing of an accusation by the board against a licensee shall be
9 tolled during the period the health care facility is out of compliance
10 with the court order and during any related appeals.

11 (4) Any health care facility that fails or refuses to comply with
12 a court order, issued in the enforcement of a subpoena, mandating
13 the release of records to the board, shall be subject to a civil
14 penalty, payable to the board, in an amount not to exceed five
15 thousand dollars (\$5,000). Any statute of limitations applicable to
16 the filing of an accusation by the board against a licensee shall be
17 tolled during the period the health care facility is out of compliance
18 with the court order and during any related appeals.

19 (c) Multiple acts by a licensee in violation of subdivision (b)
20 shall be a misdemeanor punishable by a fine not to exceed five
21 thousand dollars (\$5,000) or by imprisonment in a county jail not
22 exceeding six months, or by both that fine and imprisonment.
23 Multiple acts by a health care facility in violation of subdivision
24 (b) shall be a misdemeanor punishable by a fine not to exceed five
25 thousand dollars (\$5,000) and shall be reported to the State
26 Department of Health Care Services and shall be considered as
27 grounds for disciplinary action with respect to licensure, including
28 suspension or revocation of the license or certificate.

29 (d) A failure or refusal of a licensee to comply with a court
30 order, issued in the enforcement of a subpoena, mandating the
31 release of records to the board constitutes unprofessional conduct
32 and is grounds for suspension or revocation of his or her license.

33 (e) The imposition of the civil penalties authorized by this
34 section shall be in accordance with the Administrative Procedure
35 Act (Chapter 5 (commencing with Section 11500) of Part 1 of
36 Division 3 of Title 2 of the Government Code).

37 (f) For purposes of this section, "health care facility" means a
38 clinic or health facility licensed or exempt from licensure pursuant
39 to Division 2 (commencing with Section 1200) of the Health and
40 Safety Code.

Article 5. Revenue

2999.90. The board shall report each month to the Controller the amount and source of all revenue received pursuant to this chapter and at the same time deposit the entire amount thereof in the State Treasury for credit to the Psychology Fund established by Section 2980.

2999.91. (a) The moneys credited to the Psychology Fund under Section 2999.90 shall, upon appropriation by the Legislature, be used for the purposes of carrying out and enforcing the provisions of this chapter.

(b) The board shall keep records that will reasonably ensure that funds expended in the administration of each licensing category bear a reasonable relation to the revenue derived from each category, and shall so notify the department no later than May 31 of each year.

2999.93. The board shall establish fees for the application for and the issuance and renewal of licenses to cover, but not exceed, the reasonable regulatory costs of the board related to administering this chapter. The fees shall be fixed by the board in regulations that are duly adopted under this chapter. Fees assessed pursuant to this section shall not exceed the following:

(a) The delinquency fee shall be 50 percent of the biennial renewal fee.

(b) The fee for rescoring an examination shall be twenty dollars (\$20).

(c) The fee for issuance of a replacement license shall be twenty dollars (\$20).

(d) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

2999.94. (a) A person licensed under this chapter is exempt from the payment of the renewal fee in any one of the following instances:

(1) While engaged in full-time active service in the United States Army, Navy, Air Force, or Marine Corps.

(2) While in the United States Public Health Service.

(3) While a volunteer in the Peace Corps or AmeriCorps VISTA.

(b) Every person exempted from the payment of the renewal fee by this section shall not engage in any private practice and shall become liable for the fee for the current renewal period upon

1 the completion of his or her period of full-time active service and
2 shall have a period of 60 days after becoming liable within which
3 to pay the fee before the delinquency fee becomes applicable. Any
4 person who completes his or her period of full-time active service
5 within 60 days of the end of a renewal period is exempt from the
6 payment of the renewal fee for that period.

7 (c) The time spent in that full-time active service or full-time
8 training and active service shall not be included in the computation
9 of the three-year period for renewal of an expired license specified
10 in Section 2999.45.

11 (d) The exemption provided by this section shall not be
12 applicable if the person engages in any practice for compensation
13 other than full-time service in the United States Army, Navy, Air
14 Force, or Marine Corps, in the United States Public Health Service,
15 or the Peace Corps or AmeriCorps VISTA.

16 2999.98. The licensing and regulatory program under this
17 chapter shall be supported from fees assessed to applicants and
18 licensees. Startup funds to implement this program shall be derived,
19 as a loan, from the Psychology Fund, subject to an appropriation
20 by the Legislature in the annual Budget Act. The board shall not
21 implement this chapter until funds have been appropriated.

22 SEC. 10. No reimbursement is required by this act pursuant
23 to Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.